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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/199,933 11/25/98 BURT

K 1002-124B

EXAMINER

008698  
STANDLEY & GILCREST LLP  
495 METRO PLACE SOUTH  
SUITE 210  
DUBLIN OH 43017

PM82/0605

LAGMAN, F

ART UNIT

PAPER NUMBER

3673

DATE MAILED:

06/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/199,933

Applicant(s)

Burt

Examiner

Frederick L. Lagman

Art Unit

3673



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 5/14/01
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 3673

## **DETAILED ACTION**

### ***Preliminary Amendment***

1. The preliminary amendment filed 5/14/01 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis #5,333,971 in view of Lamp #1,066,822. Lewis discloses a retaining panel made from plastics or fiberglass, the panel comprising a central portion 18, first and second side portions 17, and first 14 and second 16 flanges, said first and second flanges including either a male 30 or female 32 connecting portions which allow for connection to a similar adjacent panel. The panel has a substantially uniform thickness, the side portions extend from the central portion at the same angle, the central portion has a substantially level outer surface, the first and second portions having intermediate sections that have substantially level outer surfaces, and the proximal portions of the flanges have substantially level outer surfaces, and wherein the central portion is approximately parallel to the proximal portions of the flanges. Lewis does not disclose the distal

Art Unit: 3673

portion of the second flange leveling to being substantially parallel to the proximal portion. Lamp teaches that it is known to extend a distal portion at an angle and then to level to be substantially parallel to the proximal portion as set forth at page 1, lines 31-35 and shown in the figure drawing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to level the distal portion so as to be substantially parallel with the proximal portion, as taught by Lamp in order to ensure that two connected flanges are in the same plane.

Lewis as modified by Lamp discloses the claimed invention except for the distance from the female connecting portion to the male connecting portion being at least about 24 inches. It would have been an obvious matter of design choice to make the distance from the female connecting portion to the male connecting portion at least about 24 inches, applicant has not disclosed that the distance between the female connecting portion to the male connecting portion being at least about 24 inches solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a panel having any desired functional "width".

#### ***Response to Arguments***

4. Applicant's arguments filed 5/14/01 have been fully considered but they are not persuasive. The modification of a providing a flange member extending forwardly at a forth angle then levelling to being parallel to the proximal portion as shown by Lamp would not appear to drastically alter Lewis. Even after the modification, it appears that the connection between the

Art Unit: 3673

bead 30 and the panel (proximate the arm 32) would allow for adequate connection to the corresponding female portion.

*Conclusion*


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Irvine et al shows a distal portion that extends at an angle then levels to being substantially parallel with the proximal portion.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick L. Lagman whose telephone number is (703) 305-7456.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Eileen Lillis, can be reached at (703) 308-3248. The fax phone number for this Group is (703) 305-7687.

  
DAVID BAGNELL  
SUPERVISORY PATENT EXAMINER  
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FLL

  
June 1, 2001